



Chile

Joint Submission to the UN Universal Periodic Review  
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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO  
in General Consultative Status with ECOSOC**

**And**

**Pro Acceso Foundation**

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**CIVICUS: World Alliance for Citizen  
Participation**

Marianna Belalba B,  
marianna.belalba@civicus.org  
Susan Wilding, susan.wilding@civicus.org  
Tel: +41 22 733 3435  
Web: www.civicus.org

**Pro Acceso Foundation**

Moises Sanchez, msanchez@proacceso.cl

Tel: +56997372494  
Web: www.proacceso.cl

## 1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 170 countries throughout the world.
- 1.2 Pro Acceso is a Chilean non-profit organisation, created by the initiative of a group of people from different disciplines that seek to promote the right to access to information in Chile.
- 1.3 In this submission, CIVICUS and Pro Acceso examine the Government of Chile's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Chile's fulfilment of the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in June 2014. To this end, we assess Chile's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide specific, action-orientated follow-up recommendations to the Government of Chile. Pro Acceso collaborates in this report with its vision and expertise regarding the right to access to information.
- 1.4 During the 2<sup>nd</sup> UPR cycle, the Government of Chile received and accepted 10 recommendations relating to civic space. However, an evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrates that the Government of Chile has not implemented any of these recommendations. While the government has made progress in relation to the legislative framework for the freedom of association and has offered various initiatives to strengthen the participation of civil society, there are still significant challenges with respect to the right to peaceful assembly both in law and in practice. In addition, the government has failed to create a safe environment for HRDs, particularly for indigenous people, who continue to face attacks and criminalisation.
- 1.5 CIVICUS is deeply concerned by the persistent and wilful misuse of the Anti-Terrorism Law (Law 18,314 on counter terrorism policy)<sup>1</sup> to silence members of the Mapuche indigenous community advocating for land rights, as well as the failure of the government to amend the law in line with international standards and best practices.
- 1.6 CIVICUS and Pro Acceso are further concerned by the lack of commitment of the government to amend legislation regulating peaceful protest, which contradicts the Chilean Constitution and international standards. We are also alarmed by the growing criminalisation and repression of social protest.

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<sup>1</sup> Law 18,314, <https://www.leychile.cl/Navegar?idNorma=29731>.

**1.7** As a result of these restrictions, the space for civil society in Chile is currently rated as ‘narrowed’ by the CIVICUS Monitor, indicating that “while the state allows individuals and civil society organisations to exercise their rights to freedom of association, peaceful assembly and expression, violations of these rights also take place.”<sup>2</sup>

- Section 2 of this submission examines Chile’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 3 examines Chile’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Chile’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, independence of the media and access to information.
- Section 5 examines Chile’s implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 makes recommendations to address the concerns raised.
- An annex covering the implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space.

## **2. Freedom of association**

**2.1** During Chile’s examination under the 2<sup>nd</sup> UPR cycle, the government received no specific recommendations on the right to the freedom of association and creating an enabling environment for CSOs. However, despite the lack of explicit recommendations, there remain a number of challenges that Chile must resolve to guarantee the full enjoyment of this right.

**2.2** Article 19 of the Constitution of Chile enshrines the right to the freedom of association.<sup>3</sup> In addition, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Chile is a state party, also guarantees the right to the freedom of association.

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<sup>2</sup> CIVICUS Monitor: Chile, <https://monitor.civicus.org/country/chile>. The CIVICUS Monitor is a research collaboration between CIVICUS and our members and partners that provides regularly updated information and analysis on the space for civil society and citizen activism in every country of the world. Rating correct as of 6 July 2018.

<sup>3</sup> Chile Constitution, [https://www.oas.org/dil/esp/Constitucion\\_Chile.pdf](https://www.oas.org/dil/esp/Constitucion_Chile.pdf).

- 2.3** Law 20,500 on Associations and Citizen Participation in Public Administration, enacted on 16 February 2011, regulates the formation and operation of CSOs.<sup>4</sup> The legislation establishes the right of every person to associate freely, with the limitation that the association does not pursue an aim that is contrary to morals, public order or public safety.
- 2.4** In general, the registration process for CSOs is simple and without burdensome costs. Associations can operate without having a legal personality. However, since municipalities are responsible for processing the registration of organisations, the processing time may vary according to the municipality, and cases have been reported in which the process has been extended for more than two months.<sup>5</sup>
- 2.5** While in law and generally in practice civil society in Chile enjoys an enabling environment,<sup>6</sup> the recognition by the government of civil society as a fundamental interlocutor in the design and implementation of public policies remains lacking. In this sense, a positive step has been the creation, in 2016, of the National Council on Citizen Participation and Strengthening of Civil Society, with a mission "to promote a national dialogue on the state of citizen participation in the country and develop a proposal to reform Law No. 20,500."<sup>7</sup> In a recent report, the Council recognised the concern of Chilean civil society regarding the fact that "the spaces for participation promoted by the State are informative and consultative, without favouring meaningful participation."
- 2.6** Regarding the right to the freedom of association for indigenous communities, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has asserted that in Chile the forms of association established in the laws can undermine the traditional structures and organisations of indigenous communities. For example, Law 19,253 on the protection, promotion and development of indigenous people establishes that in order to make a land claim, the indigenous community must be constituted as a legal entity, ignoring the traditional institutions of the indigenous community, contrary to the mandate established in the International Labour Convention 169 on Indigenous and Tribal Peoples ratified by Chile.<sup>8</sup>

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<sup>4</sup> Law 20,500 on Associations and Citizen Participation in Public Administration, <http://participacionciudadana.subdere.gov.cl/node/15>.

<sup>5</sup> 'Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association on his mission to Chile', June 2016, <http://freeassembly.net/reports/chile>.

<sup>6</sup> CIVICUS Monitor: Chile, op. cit.

<sup>7</sup> 'President presents the National Council on Citizen Participation and Strengthening of Civil Society', 14 January 2016, <https://www.gob.cl/noticias/mandataria-presenta-el-consejo-nacional-de-participacion-ciudadana-y-fortalecimiento-de-la-sociedad-civil>.

<sup>8</sup> Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2016, op. cit.

### 3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

- 3.1** During Chile's previous UPR examination, the government received and accepted five recommendations on the protection of HRDs, especially related to the protection of the rights of indigenous peoples. In this regard, the government pledged to “[R]efrain from applying anti-terrorism legislation to Mapuche individuals in the context of intercultural conflicts, including land disputes, and increase political dialogue on indigenous issue” and “continue adapting legislation against terrorism to international standards, in particular with regard to the definition of terrorism offences and the right to a fair trial.” In addition, the government made a commitment to “conduct investigation of reports related to crimes and violence by the police and the Carabineros against communities of indigenous peoples.” However, as discussed below, the government has not implemented any of the four recommendations on the protection of HRDs.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure protection to HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, despite these protections, the government has continued the practice of criminalising indigenous people, especially the Mapuche community, through the application of the Anti-Terrorism Law.
- 3.3** The Anti-Terrorism Law was enacted on 17 May 1984, during the military dictatorship of General Augusto Pinochet. The Law has been modified several times;<sup>9</sup> however, and despite the government’s commitment during the previous UPR, these modifications still fall short of international standards.
- 3.4** Although there is no comprehensive international definition of terrorism, the definition at the national level must meet certain conditions<sup>10</sup> and the legislation in this arena must respect the principle of legality enshrined in article 15 of the ICCPR. Article 1 of the Anti-Terrorism Law frames terrorism in terms of “proving that a substantive criminal offense was committed (such as arson) along with the necessary intent of generating fear among the population and thus influencing government policy.” Several international organisations have criticised the definition contained in the law, condemning it as “very broad” and “contrary to the principle of legality.”<sup>11</sup> Additionally, the law does not comply with basic due process guarantees, extends the

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<sup>9</sup> Legislation reforms, <https://www.leychile.cl/Navegar?idNorma=29731>.

<sup>10</sup> ‘Report of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,’ December 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-51.pdf>.

<sup>11</sup> Report No. 176/10, cases 12,576, 12,611 and 12,612, Inter-American Commission on Human Rights (IACHR).

preventive detention in an excessive way, and by allowing the use of “anonymous” witness statements, undermines the right to a fair trial.<sup>12</sup>

- 3.5** In practice, and despite the commitments made during the previous UPR examination and ratified in the midterm UPR report in 2017,<sup>13</sup> the government continues to invoke the Anti-Terrorism Law in cases related to social protests of the Mapuche community.
- 3.6** A characteristic case is the trial against indigenous defender Machi Francisca Linconao and eight Mapuche indigenous people who were charged with the murder of two people in 2013 as a result of a fire during a demonstration. Machi was subjected to criminal proceedings for four years, after which she was acquitted of all charges in 2017. However, the trial was annulled and she was subjected to a new trial. Although Machi was acquitted again in May 2018, the trial demonstrates the government’s lack of commitment to comply with its international commitments and the way in which anti-terrorism legislation is used to criminalise and harass the Mapuche people. According to a UN report, anti-terrorism legislation has been used in a “total of 19 emblematic cases, involving 108 individuals, mostly related to situations of Mapuche protests.”<sup>14</sup>
- 3.7** Human rights organisations contend that the application of the Anti-Terrorism Law within this context “has not achieved more convictions, nor has it ended the violence in the area,” which demonstrates that its use “is becoming a tool of discretionary and political use.”<sup>15</sup> This is a practice considered by the UN and the Inter-American Court of Human Rights as “discriminatory.”<sup>16</sup>
- 3.8** While indigenous communities are the most frequent targets of attacks, other human rights groups, particularly the environmental movement, have also been targeted. For example, in March 2017, leaders of the Movement for the Defense of Water, Land and Environmental Protection (MODATIMA) received death threats through telephone

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<sup>12</sup> ‘Human Rights Center Annual Report’, University Diego Portales, 2017, <http://www.derechoshumanos.udp.cl/derechoshumanos/images/InformeAnual/2017/5-ddhh%20pueblos%20indi%CC%81genas.pdf>.

<sup>13</sup> UPR Mid-Term Report, Chile, March 2017, [https://www.uprinfo.org/sites/default/files/document/chile/session\\_18\\_-\\_january\\_2014/chile\\_midterm\\_2ndcycle\\_2017.pdf](https://www.uprinfo.org/sites/default/files/document/chile/session_18_-_january_2014/chile_midterm_2ndcycle_2017.pdf).

<sup>14</sup> ‘Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism’, UN Office of the High Commissioner for Human Rights (OHCHR), 14 April 2014, [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/25/59/Add.2](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/25/59/Add.2).

<sup>15</sup> University Diego Portales, op. cit.

<sup>16</sup> ‘Mapuche protest in Santiago ends in repression’, CIVICUS Monitor, 25 January 2017, <https://monitor.civicus.org/newsfeed/2017/01/25/mapuche-protest-santiago-ends-repression>.

calls.<sup>17</sup> According to reports, this is not an isolated case and on several occasions members of MODATIMA have been subject to harassment and persecution.<sup>18</sup>

**3.9** Finally, although violence against journalists is not widespread in Chile,<sup>19</sup> attacks, threats and intimidation against journalists have been documented, especially when covering protests. For example, in 2017 several cases were reported of journalists being assaulted by the police or arbitrarily detained.<sup>20</sup> On 17 September 2017, it was reported that two journalists were detained while recording a protest about animal rights.<sup>21</sup> A few days later, on 22 September 2017, a Reuters journalist was detained while covering a demonstration by the Mapuche community.

## **4. Freedom of expression, independence of the media and access to information**

**4.1** During the 2nd cycle of the UPR, the government did not receive any specific recommendations regarding the freedom of expression and access to public information. However, despite the lack of recommendations, significant challenges remain regarding the exercise of these rights.

**4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. This right is recognised in article 19 of the Constitution of Chile. In addition, the constitutional reform of 2005 incorporated the principle of transparency of state acts and resolutions. Subsequently, in compliance with a ruling of the Inter-American Court of Human Rights,<sup>22</sup> Chile promulgated Law 20,285 on Transparency of Public Administration and Access to Information, which puts in place a progressive framework on access to information.<sup>23</sup>

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<sup>17</sup> 'Chile 2017/2018', Amnesty International Annual report 2017/2018, <https://www.amnesty.org/es/countries/americas/chile/report-chile>.

<sup>18</sup> 'Chile: Amenazas de muerte contra miembros de MODATIMA', International Federation for Human Rights, 10 April 2017, <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/chile-amenazas-de-muerte-contra-miembros-de-modatima>.

<sup>19</sup> 'Expression in Chile', CIVICUS Monitor, 1 June 2016, <https://monitor.civicus.org/newsfeed/2016/06/01/expression-chile>.

<sup>20</sup> 'Report of the Office of The Special Rapporteur for Freedom of Expression', Annual Report, IACHR. 2017, <https://www.oas.org/es/cidh/docs/anual/2017/docs/AnexoRELE.pdf>.

<sup>21</sup> 'Con serios incidentes y fotógrafos detenidos culminó acto de apoyo al rodeo', Publimetro, 17 September 2017, <https://www.publimetro.cl/cl/noticias/2017/09/17/con-serios-incidentes-y-fotografos-detenidos-culmino-acto-de-apoyo-al-rodeo.html>.

<sup>22</sup> Case of Claude-Reyes et al. v. Chile. Judgment of 19 September 2006, Inter-American Court of Human Rights, [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_151\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_151_ing.pdf).

<sup>23</sup> Law 20,285 on the Transparency of Public Functions and Access to Information on Public Administration, <https://www.loc.gov/law/foreign-news/article/chile-law-on-transparency-and-access-to-public-information-adopted>.

- 4.3** Chile has made significant progress regarding the freedom of expression, including by repealing the crime of contempt in the Code of Military Justice. However, article 284 of the Code criminalises anyone who "offends or insults orally or in writing or by any other means the Armed Forces, its units, divisions, weapons, classes or determined bodies, or one of its members."<sup>24</sup> Additionally, the Chilean Penal Code continues to penalise legitimate expressions of dissent as forms of slander and libel.<sup>25</sup>
- 4.4** On various occasions the authorities have invoked the Penal Code to criminalise the work of journalists. For example, in 2015 a court found journalists and editors from the weekly newspaper El Ciudadano guilty of the crime of insult following publication of an article that accused a member of Congress of committing illegal acts in the context of an election campaign.<sup>26</sup> In a separate case, the then president, Michelle Bachelet, filed a lawsuit for insults against journalists from the weekly magazine Qué Pasa, following the publication by the magazine of a conversation "about alleged illicit business of a family member of President Bachelet." Although the then president argued that her demand was made as a citizen, the magazine argued that this fact "does not diminish this pressure, since both qualities are inseparable." Bachelet subsequently withdrew the claim.<sup>27</sup>
- 4.5** As discussed above, Chile enacted an Access to Public Information Law in 2008. The law created the Council for Transparency, a body in charge of supervising compliance with the law. Various civil society groups have stated that Chile has made important progress in terms of access to information. However, important challenges remain. Among other unwarranted limitations, the law includes restrictions on "the excessive and illegitimate use of national security arguments to restrict access to public information."
- 4.6** There are other legislative initiatives, currently under discussion that seek to reinforce existing transparency mechanisms. For example, the draft bill to strengthen 'public integrity' signed by the president on July 2018 and the revision of the legislation that seeks to regulate lobby, which would allow to have unified legislation regarding lobbyist. Finally, it is important to take the necessary steps in the adoption of transparency mechanisms in the context of peaceful assemblies, based on existing international standards.<sup>28</sup>

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<sup>24</sup> Military Justice Code, <https://www.leychile.cl/Navegar?idNorma=18914>.

<sup>25</sup> Criminal Code, Articles 412-417, <https://www.leychile.cl/Navegar?idNorma=1984>.

<sup>26</sup> 'Colegio de Periodistas rechaza condena de cárcel para directores de El Ciudadano', El Mostrador, 21 June 2015, <http://www.elmostrador.cl/noticias/pais/2015/06/21/colegio-de-periodista-rechaza-condena-de-carcel-para-directores-de-el-ciudadano>.

<sup>27</sup> 'Bachelet pide tres años de cárcel para periodistas de la revista Qué Pasa', Cooperativa, 2 June 2016, <http://www.cooperativa.cl/noticias/pais/michelle-bachelet/familia/bachelet-pide-tres-anos-de-carcel-para-periodistas-de-la-revista-que/2016-06-01/222802.html>.

<sup>28</sup> Article 19, 'The Right to Protest: Principles on the protection of human rights in protests, [https://www.article19.org/data/files/medialibrary/38581/Right\\_to\\_protest\\_principles\\_final.pdf](https://www.article19.org/data/files/medialibrary/38581/Right_to_protest_principles_final.pdf)



## 5. Freedom of peaceful assembly

- 5.1** During the evaluation of Chile under the 2nd UPR cycle, the government received and accepted five recommendations on the right to the freedom of peaceful assembly. Among other recommendations, the government undertook to “[k]eep under review legislation pertaining to the policing of social protests and the tactics developed in response by law enforcement agencies, and ensure that any excessive use of force is investigated and prosecuted” and to “[a]ddress effectively the issue of excessive use of force by the police, especially during demonstrations and protests, as well as human rights violations and ill-treatment in detention.” However, no progress has been made in the implementation of these recommendations and, as evidenced below, restrictions on the freedom of peaceful assembly have continued, in law and in practice.
- 5.2** Article 21 of the ICCPR guarantees the right to the freedom of peaceful assembly. Additionally, article 19 of the Chilean Constitution recognises "the right to peacefully assemble without prior permission and without weapons," adding that "meetings in squares, streets and other places of public use will be governed by the general provisions of the police."<sup>29</sup>
- 5.3** However, CIVICUS and Pro Acceso remain concerned that this right has been undermined by Supreme Decree 1,086. Although the Constitution clearly establishes the exercise of the right to peaceful assembly "without prior permission," Supreme Decree 1,086, which came into force 1983,<sup>30</sup> regulates this right and establishes procedures that in practice function as a system of prior authorisation. For example, it establishes that to host a demonstration, participants must notify the competent authority two days in advance. Failure to comply with this requirement empowers the authorities to prevent or dissolve an unauthorised demonstration. In addition, the authorities can deny a request if they consider that there is "intense circulation" in the streets, the demonstration could "disturb public transit," or the demonstration would "take place in squares during hours in which they are habitually occupied for recreation or rest. of the population." The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, during his visit to Chile, expressed concern that this normative framework and particularly "the requirement of authorization even when it is called 'notification' converts the exercise of the right to freedom of peaceful assembly into a privilege."<sup>31</sup>

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<sup>29</sup> Article 19, Chile Constitution, op. cit.

<sup>30</sup> Supreme Decree 1,086, 1983, <https://www.leychile.cl/Navegar?idNorma=16783>.

<sup>31</sup> Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2016, op. cit.

- 5.4** In practice, cases have been documented of excessive use of force by the police, including the use of teargas bombs, rubber bullets and hydrant trucks.<sup>32</sup> For example, in 2015, during a student protest, a student was rendered unconscious for two months as a result of an improper use of a water cannon.<sup>33</sup> In a report published by CIVICUS that covers the student movement in Chile, 88 per cent of student movement leaders surveyed expressed the view that the "movement was subject to unjustified limitations and restrictions on the part of the state with respect to the exercise of the right to protest," while 87 per cent reported that there were excessive use of force and arbitrary arrests of protesters.<sup>34</sup>
- 5.5** The excessive use of force to disperse demonstrations is of particular concern during protests by students and members of the Mapuche community. Between June 2016 and May 2018, the CIVICUS Monitor received several reports of police repression of student protests.<sup>35</sup> For example, on 1 June 2017, students from the Chilean Students' Union (CONFECH) took to the streets to protest against educational reform bills being discussed in Congress. According to reports, security forces used teargas and water cannons to disperse the protest.<sup>36</sup> In a separate incident, on 17 January 2017, members of the Mapuche community took to the streets to protest against ongoing repression and the criminalisation of indigenous communities. Water cannons were used to disperse protesters and many people were detained.<sup>37</sup> In general, it has been documented that the government has responded to Mapuche community protests with "excessive use of force, raids, destruction of houses and cultural sites,"<sup>38</sup> and the criminalisation of indigenous leaders.
- 5.6** In the context of social protest, the use of force by the police has a gender component, as women, in addition to being the target of attacks and detentions, are subjected to sexual violence. For example, in a demonstration in the city of Temuco, south of the capital Santiago, a 22-year-old girl was verbally assaulted and during detention was forced to strip naked.<sup>39</sup> In 2016, during a march, nine women reported having been victims of sexual violence.<sup>40</sup>

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<sup>32</sup> IACHR, 2017, op. cit.

<sup>33</sup> Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2016, op. cit.

<sup>34</sup> 'Keeping up the pressure: enhancing the sustainability of protest movements', CIVICUS, April 2017, [http://civicus.org/documents/ProtestMovements\\_CIVICUS\\_Apr2017.pdf](http://civicus.org/documents/ProtestMovements_CIVICUS_Apr2017.pdf).

<sup>35</sup> Chile reports, CIVICUS Monitor, <https://monitor.civicus.org/newsfeed/?country=52&category=5>.

<sup>36</sup> 'Student-led protests repressed with tear gas and water cannons', CIVICUS Monitor, 1 August 2017, <https://monitor.civicus.org/newsfeed/2017/08/01/students-protests-repression-chile>.

<sup>37</sup> 'Mapuche protest in Santiago ends in repression', CIVICUS Monitor, 25 January 2017, <https://monitor.civicus.org/newsfeed/2017/01/25/mapuche-protest-santiago-ends-repression>.

<sup>38</sup> Country Report, IACHR, 2016, [https://www.oas.org/es/cidh/expresion/docs/publicaciones/informe\\_pais\\_chile.pdf](https://www.oas.org/es/cidh/expresion/docs/publicaciones/informe_pais_chile.pdf).

<sup>39</sup> 'Los estados latinoamericanos y la protesta social', Centro de Estudios Legales y Sociales, 2016, [http://www.humanas.cl/wp-content/uploads/2017/05/protesta\\_social.pdf](http://www.humanas.cl/wp-content/uploads/2017/05/protesta_social.pdf).

<sup>40</sup> IACHR, 2016, op. cit.

## **6. Recommendations to the Government of Chile**

CIVICUS and Pro Acceso call on the Government of Chile to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the United Nations Declaration on Human Rights Defenders and Human Rights Council Resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

### **6.1 Regarding the freedom of association**

- Provide clear guidelines to municipal officials responsible for registering CSOs, so that registration can be completed efficiently and expeditiously.
- Modify Law 19,253 so that traditional indigenous forms of organisation are recognised in the land reclamation and restitution process, in accordance with Convention 169 on Indigenous and Tribal Peoples.

### **6.2 Regarding the protection of human rights defenders**

- Provide a safe environment in which members of civil society, journalists and HRDs can carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation of HRDs, and bring those responsible for such crimes to justice.
- Repeal laws and decrees that unjustifiably restrict the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Specifically, amend the Anti-Terrorism Law, particularly Article 1, which defines the crime of terrorism, so that the offence is classified according to international standards, limiting the arbitrary use of the legislation by the state to criminalise the work of HRDs.
- Cease the practice of the criminalisation of social protest and the criminalisation of indigenous leaders through the discriminatory use of the Anti-Terrorism Law.

- Immediately and unconditionally release all HRDs who have been detained for exercising their fundamental right to the freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn all instances of harassment and intimidation against CSOs and activists.

### **6.3 Regarding the freedom of expression, independence of the media and access to information**

- Guarantee the freedom of expression and freedom of the media by harmonising national legislation with international standards on the freedom of expression.
- Repeal the categories of criminal offences for expression, such as the offence of contempt contained in the Code of Military Justice, as well as the criminal categories of slander and libel.
- Ensure that journalists and writers can work freely and without fear of reprisal for expressing critical opinions or covering issues that the government might consider sensitive.
- Adopt a framework for the protection of journalists against persecution, intimidation and harassment, especially during protest coverage.
- Implement measures that ensure access to information and establish mechanisms that facilitate public access in line with the best available practices.
- Adopt measures to unify existing regulations on transparency for lobbyist and other relevant stakeholders.
- Adopt transparency mechanisms in the context of peaceful assembly.

### **6.4 Regarding the freedom of assembly**

- Adopt best practices regarding the freedom of assembly, as set out by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.

- Follow up on the recommendations made by the Special Rapporteur on the rights to freedom of peaceful assembly and of association following his visit to Chile in 2015.
- Repeal Supreme Decree 1,086 to guarantee fully the right to the freedom of peaceful assembly.
- Immediately and unconditionally release all protesters, HRDs and journalists detained for exercising their right to the freedom of peaceful assembly and review their cases to avoid further harassment.
- Immediately and impartially investigate all instances of excessive force and sexual violence committed by the security forces during protests and demonstrations.
- Review, and if necessary update in collaboration with independent CSOs, existing human rights training for police and security forces, in order to promote a more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Provide recourse for judicial review and effective redress, including compensation, for cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.
- Publicly condemn the use of excessive and lethal force to disperse protests by security forces, launch formal investigations into such cases, and ensure that the perpetrators are brought to justice.

### **6.5 Regarding access to UN Special Procedures mandate holders**

- The Government of Chile has since 2009 had an open and standing invitation to all special procedures, since 2009. Accordingly, it is recommended to prioritise official visits by the: 1) Special Rapporteur on the rights of indigenous peoples; 2) Office of the Special Rapporteur on the situation of the human rights defenders; 3) Rapporteur on the Protection and Promotion of Human Rights in the Fight against Terrorism; 4) Office of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 5) Office of the Special Rapporteur on the right to privacy; and 6) Working Group on Arbitrary Detention.

## **6.6 Regarding state engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, considering the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## Annex: Assessment of implementation of civic space recommendations under the 2<sup>nd</sup> cycle

Recommendation	Position	Assessment/comments on level of implementation
<b>Theme: Right to peaceful assembly</b>		
A - 121.76. Promote, through policies and legal norms, the accountability of the police and administrative authorities resorting to the use of force during peaceful demonstrations (Cuba)	Supported	Status: Not implemented. See section 5
A - 121.77. Continue to fully investigate all alleged cases of ill-treatment by the police, including during student demonstrations (Cyprus)	Supported	Status: Not implemented. See section 5
A - 121.78. Address effectively the issue of excessive use of force by the police, especially during demonstrations and protests, as well as human rights violations and ill-treatment in detention (Czech Republic)	Supported	Status: Not implemented. See section 5
A - 121.80. Keep under review legislation pertaining to the policing of social protests and the tactics developed in response by law enforcement agencies, and ensure that any excessive use of force is investigated and prosecuted (United Kingdom)	Supported	Status: Not implemented. See section 5
A - 121.82. Continue to address allegations of excessive use of force by the police (Canada)	Supported	Status: Not implemented. See section 5
<b>Theme: Human rights defenders</b>		
A - 121.22. Continue adapting legislation against terrorism to international standards, in particular with regard to the definition of terrorism offences and the right to a fair trial (Switzerland)	Supported	Status: Not implemented. See section 3
A - 121.81. Conduct investigation of reports related to crimes and violence by the police and the Carabineros against communities of indigenous peoples (Uzbekistan);	Supported	Status: Not implemented. See section 3
A - 121.167. Take action, through the appropriate procedures, to ensure that the Anti-Terrorist Law does not undermine the rights of indigenous peoples and include those rights in the	Supported	Status: Not implemented. See section 3

legal and administrative structure of the country (Cuba);		
A - 121.168. Refrain from applying anti-terrorism legislation to Mapuche individuals in the context of intercultural conflicts, including land disputes, and increase political dialogue on indigenous issues (United States);	Supported	Status: Not implemented. See section 3
A - 121.169. Ensure that all human rights of indigenous persons are promoted and respected, inter alia by ensuring the participation of concerned groups in the decision-making processes that affect their human rights and by ensuring that the application of the Counter-Terrorism Law does not undermine the human rights of indigenous as well as other persons (Germany);	Supported	Status: Not implemented. See section 3